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BellSouth Telecommunications, Inc.

333 Commerce Street
Suite 2101
Nashville, TN 37201-3300

guy.hicks@bellsouth.com

Guy M. Hicks
General Counsel

615 214 6301
Fax 615 214 7406

T.R.A. DOCKET ROOM
August 4, 2003

VIA HAND DELIVERY

Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with
BellSouth Telecommunications, Inc. Pursuant to the
Telecommunications Act of 1996
Docket No. 03-00119

Dear Chairman Tate:

Enclosed are the original and fourteen copies of direct testimony being filed on
behalf of BellSouth by the following witnesses:

Kathy Blake ✓
Ronald M. Pate ✓

W. Keith Milner
John Ruscilli

The exhibit to Mr. Milner's testimony is proprietary and will be filed under
separate cover pursuant to the Protective Order entered in this matter. Copies of the
enclosed are being provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2003, a copy of the foregoing document was served on the parties of record, via the method indicated:

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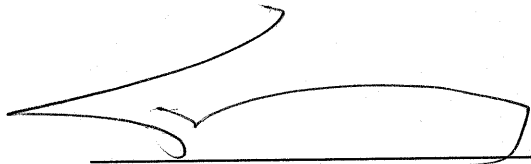
Henry Walker, Esquire
Boult, Cummings, et al.
414 Union Street, #1600
Nashville, TN 37219-8062
hwalker@boultcummings.com

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

Nanette S. Edwards, Esquire
ITC^DeltaCom
4092 South Memorial Parkway
Huntsville, AL 35802
nedwards@itcdeltacom.com

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

David Adelman, Esquire
Charles B. Jones, III, Esquire
Sutherland Asbill & Brennan
999 Peachtree Street, NE
Atlanta, GA 30309



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BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF JOHN A. RUSCILLI

BEFORE THE TENNESSEE REGULATORY AUTHORITY

DOCKET NO. 03-00119

AUGUST 4, 2003

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is John A. Ruscilli. I am employed by BellSouth as Senior Director – Policy Implementation and Regulatory Compliance for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I attended the University of Alabama in Birmingham where I earned a Bachelor of Science Degree in 1979 and a Master of Business Administration in 1982. After graduation I began employment with South Central Bell as an Account Executive in Marketing, transferring to AT&T in 1983. I joined BellSouth in late 1984 as an analyst in Market Research, and in late 1985 moved into the Pricing and Economics organization with various responsibilities for business case analysis, tariffing, demand analysis and price

1 regulation. In July 1997, I became Director of Regulatory and Legislative
2 Affairs for BellSouth Long Distance, Inc., with responsibilities that included
3 obtaining the necessary certificates of public convenience and necessity,
4 testifying, Federal Communications Commission ("FCC") and state regulatory
5 support, federal and state compliance reporting and tariffing for all 50 states
6 and the FCC. I assumed my current position in July 2000.

7
8 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

9
10 A. The purpose of my testimony is to present BellSouth's position on the certain
11 unresolved issues in this arbitration proceeding between BellSouth and
12 ITC^DeltaCom Communications, Inc. ("DeltaCom") and to explain why the
13 Tennessee Regulatory Authority ("Authority") should rule in BellSouth's
14 favor on these issues. BellSouth formally requested negotiations regarding an
15 interconnection agreement with DeltaCom on April 12, 2002. BellSouth and
16 DeltaCom negotiated in good faith and resolved many of the issues raised
17 during the negotiations. DeltaCom originally raised 71 issues with multiple
18 sub-issues. Since the original 71 issues were identified, it is BellSouth's
19 understanding that the parties have reached agreement as to Issues 3, 4, 5, 7,
20 8(b), 10, 11(c), 12, 13(a), 14-17, 19, 20(a), 22, 28, 32, 35, 38, 43, 48-49, 52,
21 53(a), 61, 65(a), 68 and 71. (Should these issues not be resolved, BellSouth
22 reserves its right to file supplemental testimony on those issues.) In addition,
23 BellSouth understands that the parties have reached agreement in principle,
24 but have not agreed on Interconnection Agreement language, on the following
25 issues: 13(b), 18, 20(b), 23, 24, 27, 29, 39-42, 45, 50, 51, 53(b), 54, 55, 65(b),

1 69 and 70. Issues 30-31 and 33-34 have been withdrawn pending issuance of
2 the FCC's Triennial Review Order. Again, should these issues not be
3 resolved, BellSouth reserves the right to file supplemental testimony. My
4 testimony addresses Issues 1-2, 11(a-b), 25, 44, 46-47, 56, 58-60, and 62-64.
5

6 ***Issue 1: Term of the Agreement (GTC – Section 2.1; 2.3-2.6)***

7 ***(a) Should the parties continue to operate under the Authority-approved***
8 ***interconnection agreement pending the Authority's ruling on the***
9 ***arbitration?***

10 ***(b) If so, what should be the length of the term of the agreement resulting***
11 ***from this arbitration?***
12

13 Q. WHAT IS BELL SOUTH'S POSITION ON THESE ISSUES?
14

15 A. (a) BellSouth's position is that it is not appropriate for the parties to continue
16 to operate under the expired Agreement indefinitely. The parties should
17 operate under the provisions of the expired Agreement for no more than 12
18 months after the expiration date. Combined with the re-negotiation interval
19 that can begin as early as 270 days prior to the expiration of the agreement,
20 this gives the parties approximately 21 months to enter into a new Agreement,
21 either through negotiation or arbitration. If the parties still have not entered
22 into a new agreement twelve months after the expiration of the existing
23 agreement, the parties should default to BellSouth's Standard Interconnection
24 Agreement, which is updated regularly to reflect all changes in the legal
25 requirements imposed on BellSouth. It is unreasonable to require the rates,

1 terms and conditions of the expired Agreement to continue to apply
2 indefinitely after the expiration of the agreement because doing so stifles
3 BellSouth's ability to implement new processes or, alternatively, forces
4 BellSouth to maintain old processes to be performed manually. With
5 hundreds of Competitive Local Exchange Carriers ("CLECs") operating under
6 expired agreements that contain antiquated processes and procedures for an
7 extended period of time would be unmanageable and would inhibit
8 BellSouth's ability to offer interconnection, unbundled network elements
9 ("UNEs") and other services in an efficient and timely manner.

10
11 (b) The term of the new Agreement should be no more than three years. In the
12 past, the effective date of the agreement was retroactive to the expiration date
13 of the old agreement. That fact occasionally created situations in which the
14 new agreement actually remained in effect for less than three years. That
15 situation will not occur in this case, however, because the effective date of the
16 new DeltaCom agreement is *after* the date the parties execute the new
17 agreement, and not retroactive to the expiration date of the old agreement.
18 Under BellSouth's proposal, therefore, the entire three-year term would be
19 prospective. BellSouth's proposal for a three-year term is also consistent with
20 the three-year timeframe set by the FCC in the past for review of its rules
21 under Section 251, and it is actually longer than the two-year timeframe more
22 recently identified by the FCC for review of the rules enacted pursuant to its

1 Triennial Review.¹

2
3 ***Issue 2: Directory Listings (GTC – Section 4; Attachment 6 – Section 2.2.2):***

4 ***(a) Is BellSouth required to provide DeltaCom the same directory listing***
5 ***language it provides to AT&T?***

6 ***(b) Is BellSouth required to provide an electronic feed of the directory***
7 ***listings of DeltaCom customers?***

8 ***(c) Does DeltaCom have the right to review and edit its customers' directory***
9 ***listings?***

10 ***(d) Should there be a credit or PMAP measure for accuracy of directory***
11 ***listings and, if so, what should [be] the credit or PMAP measure?***

12
13 Q. WHAT IS BELL SOUTH'S POSITION ON THESE ISSUES?

14
15 A. (a) Pursuant to 47 USC § 252(i), DeltaCom can adopt rates, terms and
16 conditions for network elements, services, and interconnection from any
17 interconnection agreement filed and approved pursuant to 47 USC § 252,
18 under the same terms and conditions as the original Interconnection
19 Agreement. DeltaCom has requested of BellSouth to adopt language for
20 directory listings from the AT&T Interconnection Agreement filed and
21 approved by the Authority, and BellSouth will agree to this as follows. To the
22 extent Deltacom adopts rates, terms and conditions for directory listings from

¹ Attachment to FCC Triennial Review Press Release, *FCC Adopts New Rules for Network Unbundling Obligations of Incumbent Local Phone Carriers*, Released February 20, 2003: "Periodic Review of National Unbundling Rules – The Commission will evaluate these rules consistent with the biennial review mechanism established in section 11 of the Act."

1 an agreement filed and approved by the Authority, such an adoption would be
2 incorporated into DeltaCom's agreement for the original term of the adopted
3 agreement (i.e., for the term of the AT&T agreement). Section 252(i) clearly
4 requires such an adoption to be "upon the same terms and conditions as those
5 provided in the [approved] agreement". In such case, BellSouth proposes that
6 the language included in its proposal replace the language adopted from the
7 AT&T agreement when the AT&T agreement expires, to ensure that there are
8 applicable rates, terms and conditions for directory listings for the full term of
9 that agreement.
10

11 (b) BellSouth is required to provide access to its directory assistance database
12 and charges fees to do so pursuant to its Interconnection Agreement and its
13 tariff. BellSouth Advertising & Publishing Company (BAPCO) will provide a
14 manual directory listing of a CLEC's customers upon request. BellSouth is
15 not required to provide (and does not have the system capabilities to provide)
16 an electronic feed of directory listings for DeltaCom customers.
17

18 (c) DeltaCom has the right to review and edit its customers' directory listings
19 through access to DeltaCom's own customer service records. BellSouth
20 Telecommunications, Inc. does not have a database through which review and
21 edits of directory listings may be made. In accordance with the agreement
22 between BAPCO and the CLEC, BAPCO provides "review pages" of all
23 listings prior to the book closing, if requested by the CLEC. The CLEC may
24 provide edits to the "review pages."
25

1 (d) If an error occurs in a Directory Listing, DeltaCom can request a credit for
2 any monies billed that are associated with the charge for said listing pursuant
3 to BellSouth's General Subscriber Service Tariff (GSST). This is consistent
4 with BellSouth's treatment of its retail customers. Further, an arbitration
5 proceeding with an individual CLEC is not the appropriate forum in which to
6 address the issue of PMAP measurements.
7

8 Q. ARE THESE ISSUES THE APPROPRIATE SUBJECT OF AN
9 ARBITRATION PROCEEDING?
10

11 A. Issue 2(a) may be, but Issues 2(b), 2(c), and 2(d) are not.
12

13 Q. WHY ARE ISSUES 2(b) AND 2(c) NOT THE APPROPRIATE SUBJECT
14 OF AN ARBITRATION PROCEEDING?
15

16 A. Because they are not related to nondiscriminatory access to directory listings,
17 but instead they are related to directory publishing, which is not a Sec. 251
18 obligation.
19

20 Q. WHY IS ISSUE 2(d) NOT THE APPROPRIATE SUBJECT OF AN
21 ARBITRATION PROCEEDING?
22

23 A. Issue 2(d) is not appropriately included in an arbitration proceeding because it
24 addresses performance measurements, and the Authority has addressed such
25 issues in its separate performance measures docket, Docket No. 01-00193,

1 *Establishment of Generic Performance Measurements, Benchmarks and*
2 *Enforcement Mechanisms for BellSouth Telecommunications, Inc.* In the first
3 Tennessee DeltaCom-BellSouth arbitration proceeding (Docket 99-00430),
4 performance measurements were approved.² However, subsequent to that
5 Order, in Docket No. 01-00193, pursuant to the settlement agreement reached
6 by the parties in the Authority's 271 proceeding, the Authority agreed to adopt
7 the Florida performance measurements and penalty plan in Tennessee
8 beginning December 1, 2002. If DeltaCom wants to raise performance
9 measurement issues, it may do so in the context of the Authority's periodic
10 review of BellSouth's Performance Measurements Plan. It is inappropriate,
11 however, for DeltaCom to seek to raise performance measurement issues in
12 this two-party arbitration proceeding.

13
14 ***Issue 11: Access to UNEs (Attachment 2 – Sections 1.1, 1.4 and 1.10):***

15 ***(a) Should the interconnection agreement specify that the rates, terms and***
16 ***conditions of the network elements and combinations of network elements***
17 ***are compliant with state and federal rules and regulations?***

18 ***(b) Must all network elements be delivered to DeltaCom's collocation***
19 ***arrangement?***

20
21 Q. WHAT IS BELLSOUTH'S POSITION ON THESE ISSUES?

22
23 A. (a) The Interconnection Agreement should specify that the rates, terms and
24 conditions of network elements and combinations of network elements should

² Docket 99-00430, Final Order of Arbitration, dated February 23, 2001.

1 be compliant with federal and state rules promulgated pursuant to Section 251
2 of the Telecommunications Act of 1996 (“Act”). The Interconnection
3 Agreement is an agreement required under Sections 251 and 252 of the Act
4 and should be limited to those interconnection, network elements and services
5 required pursuant to Section 251 of the Act.

6
7 If a state commission orders BellSouth to provide access to network elements
8 pursuant to its authority under Section 251 of the Act, then such requirements
9 should be incorporated into the interconnection agreement. By contrast, if a
10 state commission orders BellSouth to provide access to network elements
11 pursuant to any authority other than Section 251 (for example under a separate
12 state statutory authority, to the extent that such authority may exist), those
13 elements should not be required to be included in a Section 251 agreement.
14 Since such additional state requirements would not be ordered pursuant to
15 Section 251 of the Act, BellSouth should not be required to incorporate them
16 into an agreement that is entered into under Section 252 of the Act and that is
17 subject to all of the requirements of Section 252 – such requirements could be
18 tariffed or offered pursuant to a separate agreement between the parties.

19
20 (b) Not all UNEs terminate to a CLEC’s collocation space. For example,
21 databases are not accessed via collocation space. BellSouth’s proposed
22 language does not require that all elements terminate to a central office
23 collocation space, and it expressly excludes those elements that do not have to
24 terminate at a collocation space. For instance, under certain provisions,
25 carriers (CLECs, IXCs, or CMRS providers) may connect UNE loops, UNE

1 local channels, or tariffed local channels to another carrier's collocation
2 arrangement. Similarly, carriers may connect UNE or tariffed transport from
3 the ordering carrier's collocation space to another carrier's collocation
4 arrangement.

5
6 ***Issue 25: Provision of ADSL where DeltaCom is the UNE-P Local Provider***
7 ***(Attachment 2 – Section 8.4): Should BellSouth continue providing the***
8 ***end-user ADSL service where DeltaCom provides UNE-P local service to***
9 ***that same end-user on the same line?***

10

11 Q. COULD YOU BRIEFLY DESCRIBE THE ADSL SERVICES THAT
12 BELL SOUTH SELLS?

13

14 A. Yes. BellSouth sells both a federally-regulated wholesale DSL transport
15 service and a non-regulated retail DSL-based Internet access service, known
16 as BellSouth FastAccess® Internet Service ("FastAccess").

17

18 BellSouth offers the federally-regulated wholesale DSL transport service
19 through BellSouth's Special Access F.C.C. Tariff No. 1. This tariffed DSL
20 service is designed for use by Internet service providers ("ISPs"), such as
21 AOL, EarthLink, MSN and BellSouth's own ISP operations as a component
22 of their Internet access services. This service provides the necessary transport
23 component as input for a service that provides access to the Internet, and it
24 consists of the offering of a capability to transmit information at a rate that is

1 generally not less than one hundred ninety kilobits per second in at least one
2 direction.

3 BellSouth's retail, unregulated FastAccess service uses the federally-regulated
4 DSL transport service as an input. FastAccess is an enhanced, nonregulated,
5 nontelecommunications service. BellSouth's FastAccess service provides
6 access to the Internet, and it consists of both the offering of a capability to
7 transmit information at a rate that is generally not less than one hundred
8 ninety kilobits per second in at least one direction and the combination of
9 computer processing, information storage, and protocol conversion to enable
10 users to access both proprietary and public Internet content and services.

11

12 Q. WHAT IS BELL SOUTH'S POLICY ON THIS ISSUE?

13

14 A. BellSouth's policy is that it provides DSL and FastAccess on BellSouth
15 provided exchange line facilities. A UNE-P line is not a BellSouth-provided
16 facility (i.e., the CLEC owns the entire loop); thus, BellSouth does not have
17 access to the high frequency portion of the loop ("HFPL") and lacks
18 permission to provision DSL over this portion of the CLEC loop.
19 Furthermore, many databases would need to be created to track which CLECs
20 are allowing BellSouth to use their HFPL, for which states, at what cost, and
21 for which end users. Additionally, many system enhancements would need to
22 be designed and implemented to ensure BellSouth's current systems would be
23 able to interface with these databases. To continue to provide DSL service to
24 migrating customers would be inconsistent with the manner in which

1 BellSouth designed its DSL service. In order for BellSouth to recover its
2 development costs for DSL over UNE-P, it would either have to charge the
3 CLEC, or the network services provider ("NSP"), or its shareholders. Other
4 DSL providers are not subject to these additional regulatory requirements and
5 costs, which would ultimately result in a higher price for the end user, and
6 would most likely make BellSouth's DSL less competitive compared to
7 service of other DSL providers and broadband technologies.

8
9 Q. SHOULD BELLSOUTH BE REQUIRED TO CONTINUE TO PROVIDE
10 DSL SERVICES FOR CUSTOMERS TO WHOM DELTACOM PROVIDES
11 VOICE SERVICES USING UNE-P?

12
13 A. No. The FCC addressed this issue in its *Line Sharing Order*³ and concluded
14 that incumbent carriers are not required to provide line sharing to requesting
15 carriers that are purchasing UNE-P combinations. The FCC reiterated this
16 determination in its *Line Sharing Reconsideration Order*.⁴ It stated: "We
17 deny, however, AT&T's request that the Commission clarify that incumbent
18 LECs must continue to provide xDSL service in the event customers choose to
19 obtain service from a competing carrier on the same line because we find that
20 the Line Sharing Order contained no such requirement." Id. at ¶26. The FCC
21 then expressly stated that the *Line Sharing Order* "does not require that they

³ *In Re: Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Order No. FCC 99-355 in CC Docket Nos. 98-147, 96-98 (Released December 9, 1999) (*Line Sharing Order*).

⁴ *Third Report and Order on Reconsideration* in CC Docket No. 98-147 and *Fourth Report and Order on Reconsideration* in CC Docket No. 96-98, Order No. FCC 01-26 (Released January 19, 2001) (*Line Sharing Reconsideration Order*).

1 [LECs] provide xDSL service when they are not [sic] longer the voice
2 provider.” *Id.* The FCC explained: “We note that in the event that the
3 customer terminates its incumbent LEC provided voice service, for whatever
4 reason, the competitive data LEC is required to purchase the full stand-alone
5 loop network element if it wishes to continue providing xDSL service.” (*Line*
6 *Sharing Order*, at ¶ 72).

7
8 If DeltaCom purchases the UNE-P, DeltaCom becomes the voice provider
9 over that loop/port combination, and it owns the entire loop, including the
10 high frequency spectrum. The Authority should find, consistent with the
11 FCC’s rulings, that BellSouth is not obligated to provide DSL services for
12 customers who switch to DeltaCom’s UNE-P based voice services. Nothing
13 precludes DeltaCom from entering into a line splitting arrangement with
14 another carrier to provide DSL services to DeltaCom’s voice customers or
15 from providing its own DSL service over the UNE loop.

16
17 Q. ARE THERE OTHER REASONS THAT BELL SOUTH SHOULD NOT BE
18 REQUIRED TO CONTINUE TO PROVIDE ITS DSL SERVICE TO
19 CUSTOMERS SERVED BY DELTACOM OVER UNE-P?

20
21 A. Yes. There are significant operational issues that would make it extremely
22 burdensome for BellSouth to provide DSL service over a UNE loop purchased
23 by a CLEC to provide voice service. As mentioned previously, when a CLEC
24 purchases a UNE-P, that CLEC controls the entire loop, including both the
25 low frequency spectrum and the high frequency portion of the loop (“HFPL”)

1 that is used to provision DSL service. The CLEC can choose to use either
2 portion of the loop as it wishes. Not all CLECs want BellSouth's DSL service
3 to be provided when serving the customer via UNE-P: (1) some CLECs do
4 not want BellSouth to continue its DSL service; (2) some CLECs want
5 BellSouth to provide DSL service and will not charge BellSouth; or (3) some
6 CLECs want BellSouth to provide DSL, but want BellSouth to pay the CLEC
7 for leasing back the high frequency spectrum. Most importantly, BellSouth's
8 systems are not capable of tracking different arrangements with different
9 CLECs, nor should BellSouth be forced to pay the CLEC to provide a service
10 BellSouth does not choose to provide.

11
12 Q. ARE THERE INSTANCES IN WHICH A CLEC'S VOICE CUSTOMER
13 CAN CONTINUE TO RECEIVE BELL SOUTH'S DSL SERVICE?

14
15 A. Yes. Where a CLEC resells BellSouth voice service to an end user who
16 already subscribes to FastAccess, BellSouth will continue to provide the retail
17 FastAccess ADSL service and the wholesale interstate DSL transport service.
18 Unlike the above situation with UNE-P, a CLEC reselling BellSouth's service
19 does not have control of the loop. Specifically, the CLEC does not have
20 access to the HFPL, which is required to provide DSL services. BellSouth
21 retains access to the HFPL and, therefore, can continue to provide BellSouth's
22 DSL service. Consequently, the operational issues mentioned earlier are not
23 concerns in a resale scenario.

1 Q. WHAT DOES BELL SOUTH REQUEST OF THE AUTHORITY?

2

3 A. BellSouth requests that the Authority rule consistent with the FCC that
4 BellSouth is not required to provide its DSL service in instances where the
5 end user's voice telecommunications service is provided by a CLEC using an
6 unbundled loop, or by UNE-P.

7

8 *Issue 44: Establishment of Trunk Groups for Operator Services, Emergency*
9 *Services, and Intercept (Attachment 3): Should the interconnection*
10 *agreement set forth the rates, terms and conditions for the establishment of*
11 *trunk groups for operator services, emergency services, and intercept?*

12

13 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

14

15 A. In BellSouth's other states, our position is that the rates, terms and conditions
16 for the establishment of trunk groups for operator services, directory
17 assistance, emergency services, and intercept should not be included in the
18 Interconnection Agreement because these services are no longer UNEs.
19 However, in Tennessee, Operator Services and Directory Assistance elements
20 must currently be unbundled,⁵ are available at UNE rates in Tennessee and are
21 handled in Attachment 2 of the Interconnection Agreement.

⁵ The Authority's Order in Docket Nos. 97-01262 and 01-00526, dated June 21, 2001, states: "Before BellSouth may be relieved of its obligations under FCC Rule 319(f), the Authority must find that BellSouth's routing solution is functionally adequate and delineate the service areas where the compliant routing solution is available to competing carriers. The Authority has not made such a finding in any docket."

1 ***Issue 46: BLV/BLVI (Attachment 3): Does BellSouth have to provide BLV/BLVI***
2 ***to DeltaCom consistent with the language proposed by DeltaCom?***

3
4 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

5
6 A. BellSouth provides Busy Line Verification ("BLV") and Busy Line
7 Verification Interrupt ("BLVI") in a nondiscriminatory manner and at parity
8 with how it provides such functionality to its retail customers. BLV/BLVI
9 are tariffed services, not UNEs, and are, therefore, not appropriate issues of a
10 §251 arbitration. Should DeltaCom wish to avail itself of this offering, it can
11 obtain BLV and BLVI pursuant to the rates, terms and conditions in
12 BellSouth's applicable tariff.

13
14 ***Issue 47: Compensation for the Use of DeltaCom's Collocation Space ("Reverse***
15 ***Collocation") (Attachment 4): Should BellSouth be required to Compensate***
16 ***DeltaCom when BellSouth locates in DeltaCom's collocation space at the***
17 ***same rates, terms and conditions that apply to DeltaCom when it collocates***
18 ***in BellSouth's space?***

19
20 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

21
22 A. This issue is not an appropriate subject for inclusion in an arbitration
23 proceeding, because it is not a Section 251 requirement. Instead, as explained
24 in the following discussion, BellSouth proposes that the resolution of this
25 issue be included in a separate agreement that would have the same expiration

1 date as the term of the new Interconnection Agreement.

2

3 BellSouth has not collocated its equipment at a DeltaCom Point of Presence
4 ("POP") location or any other location for the sole purpose of interconnecting
5 with DeltaCom's network and/or accessing Unbundled Network Elements
6 ("UNEs") in the provision of a telecommunications service to the end users
7 located in DeltaCom's franchised serving area. Nor does BellSouth intend to
8 do so.

9

10 What BellSouth has actually installed at various Points of Presence ("POPs")
11 in Tennessee is equipment that is being used to provision Special and
12 Switched Access Services ordered by DeltaCom and/or DeltaCom's end user
13 customers at various POP locations. This equipment provides DeltaCom with
14 dedicated LightGate® services and base-line services at these POP locations,
15 which are then used by DeltaCom to provide its end users with particular
16 services. As explained below, this equipment is not being used for collocation
17 purposes. In addition to this equipment, BellSouth has installed additional
18 equipment in certain locations which utilize spare capacity on existing
19 BellSouth terminals to exchange local traffic with DeltaCom.

20

21 Q. HOW IS THE TERM "COLLOCATION" DEFINED IN THE
22 TELECOMMUNICATIONS ACT OF 1996?

23

24 A. The Telecommunications Act of 1996 defines the term "collocation" in
25 Section 251, Interconnection, Section (c)(6) as:

1
2 “The duty to provide, on rates, terms, and conditions that are
3 just, reasonable, and nondiscriminatory, for physical
4 collocation of equipment necessary for interconnection or
5 access to unbundled network elements *at the premises of the*
6 *local exchange carrier, ...* (emphasis added).”
7

8 Q. DOES THE ACT REQUIRE DELTACOM TO PERMIT COLLOCATION
9 OF BELL SOUTH’S EQUIPMENT IN ITS POP LOCATIONS OR ANY
10 OTHER LOCATIONS (SUCH AS A CENTRAL OFFICE)?
11

12 A. No. The Act does not include a requirement that DeltaCom permit collocation
13 of BellSouth's equipment in a DeltaCom POP location or any other location
14 (such as a central office). Consequently, the rates, terms and conditions under
15 which BellSouth would elect to collocate in a DeltaCom POP location or any
16 other location (including a central office) are not the appropriate subject of a
17 Section 252 arbitration. Additionally, any such rates, terms and conditions
18 should not be included in an Interconnection Agreement between the Parties
19 under Section 251, nor made public record, just as DeltaCom is not required
20 to publicly file any other agreement that it has negotiated with another carrier
21 for collocation. If BellSouth is required to file in the public record a
22 commercial real estate arrangement between the parties, BellSouth could be
23 negatively impacted in its future commercial real estate transactions with
24 other entities.
25

1 Q. HAS BELLSOUTH LOCATED EQUIPMENT IN A DELTACOM POINT
2 OF PRESENCE ("POP")?
3
4 A. Yes. BellSouth has installed equipment at DeltaCom Points of Presence that
5 is being used to provide Special and Switched Access Services ordered by
6 DeltaCom at various POP locations in Tennessee. This equipment provides
7 DeltaCom with base-line services at these POP locations, which are then used
8 by DeltaCom to provide its end users with specific services. At some
9 locations, BellSouth has installed additional equipment that uses some of the
10 spare capacity to exchange local traffic with DeltaCom. BellSouth has not
11 located its equipment at a DeltaCom POP location or any other location for
12 the sole purpose of interconnecting with DeltaCom's network or accessing
13 UNEs for the provision of a telecommunications service, nor does BellSouth
14 intend to do so.
15
16 Q. APART FROM AN ARRANGEMENT THAT WAS ORIGINALLY
17 INTENDED FOR ACCESS SERVICES AS DESCRIBED ABOVE, HAS
18 BELLSOUTH SPECIFICALLY REQUESTED SPACE IN A DELTACOM
19 POP OR CENTRAL OFFICE FOR THE DELIVERY OF ITS ORIGINATED
20 LOCAL INTERCONNECTION TRAFFIC?
21
22 A. No. BellSouth has not specifically requested space in a DeltaCom POP or
23 Central Office for the delivery of its originated local interconnection traffic.
24
25 Q. WOULD THE PLACEMENT BY BELLSOUTH OF ITS EQUIPMENT IN A

1 DELTACOM POP CONSTITUTE COLLOCATION?

2

3 A. That depends. If the only equipment BellSouth has installed at a DeltaCom
4 POP or other location is used for local interconnection, then BellSouth would,
5 in effect, be "collocating" (albeit not as that term is defined by the Act) at that
6 particular DeltaCom location. However, if the equipment installed by
7 BellSouth in a DeltaCom POP or other location is being used for the purpose
8 of provisioning a Special or Switched Access Service, then BellSouth is not
9 "collocating" at the DeltaCom location.

10

11 Currently, BellSouth has a small amount of equipment that is located within
12 the spare capacity at several DeltaCom's POPs to provide for the hand-off of
13 local interconnection traffic. The parties have mutually agreed to this type of
14 arrangement over the years. Obviously, BellSouth would not have placed any
15 of this type of equipment if such an arrangement had not benefited DeltaCom.
16 To my knowledge, there has never been any discussion between the Parties
17 about this equipment being considered "collocated" equipment, nor the space
18 utilized by this equipment in the DeltaCom POP or any other location as being
19 considered "collocation space."

20

21 Q. HAS DELTACOM EVER BILLED BELL SOUTH FOR THE EQUIPMENT
22 PLACED IN ITS POPS USED FOR LOCAL INTERCONNECTION?

23

24 A. Not to my knowledge.

25

1 Q. PLEASE EXPLAIN WHY BELL SOUTH IS USING POP LOCATIONS TO
2 EXCHANGE LOCAL TRAFFIC.

3
4 A. When a telecommunications carrier ("carrier"), such as DeltaCom, orders
5 access services from BellSouth, pursuant to the tariff, the carrier must furnish,
6 at no charge to BellSouth, the necessary equipment, space and electrical
7 power at the point(s) of termination of such services. Furthermore, the
8 telecommunications carrier must also make necessary arrangements for
9 BellSouth to have access to such space at reasonable times for installing,
10 testing, repairing or removing BellSouth services. (See BellSouth Tariff FCC
11 No. 1, Section 2.3.3 and BellSouth Tennessee Access Services Tariff, Section
12 E2.3.3.)

13
14 Typically, when carriers, such as DeltaCom, and BellSouth negotiate the
15 hand-off of local traffic to a specified Point of Interconnection ("POI"), the
16 Parties would look at available capacity to determine if there is any existing
17 spare capacity that could be used. If sufficient capacity exists to the Carrier's
18 POP, the carrier and BellSouth would, in most cases, mutually agree to use
19 that spare capacity for the local traffic. Obviously, this decision would be
20 reached after much discussion through network planning meetings held by the
21 Parties.

22
23 Q. WHY DOES IT MAKE SENSE TO USE AVAILABLE EXISTING
24 CAPACITY AT DELTACOM'S POP?

25

1 A. The use of available existing spare capacity to DeltaCom's POP makes sense,
2 because both Parties already have an established demarcation point at
3 DeltaCom's location and the establishment of a separate POI would not be
4 cost effective for either DeltaCom or BellSouth. If DeltaCom has sufficient
5 existing capacity, then it would be much cheaper to use that spare capacity
6

7 Q. BASED ON THE DISCUSSION ABOVE, IT APPEARS THAT
8 DELTACOM'S POP IS BEING USED FOR MULTIPLE PURPOSES? IS
9 THAT CORRECT?
10

11 A. Yes. DeltaCom's POP is being used as the point of termination for access
12 services ordered by DeltaCom, as well as, in some cases, for the exchange of
13 local traffic.
14

15 Q. HAS BELL SOUTH PLACED EQUIPMENT IN ANY DELTACOM POP IN
16 TENNESSEE FOR THE PURPOSE OF PROVIDING LOCAL
17 INTERCONNECTION?
18

19 A. Yes, but only because DeltaCom requested it or it was to the parties' mutual
20 benefit and only in those POPs that had spare capacity. In all of these POPs,
21 the equipment installed for the exchange of traffic is incidental to the existing
22 Special and/or Switched Access equipment installed by BellSouth at these
23 POPs. BellSouth has no intention of establishing any stand-alone local
24 interconnection arrangements.
25

1 Q. PLEASE EXPLAIN BELL SOUTH'S PROPOSED RESOLUTION TO THIS
2 ISSUE.

3
4 A. It is BellSouth's position that all of the existing POPs and any other locations
5 in which BellSouth has placed equipment, including any augments to the
6 equipment already placed at these sites, should be exempted from any future
7 collocation agreement. This is because these locations have never been the
8 subject of a collocation agreement in the past and were established to the
9 mutual benefit of the parties at the time, without any expectation, at least on
10 BellSouth's part, that they would be subject to a collocation agreement in the
11 future. The prior collocation agreement was not used as the basis for
12 establishing those arrangements and the lack of any billing under the
13 collocation agreement on DeltaCom's part for those arrangements is evidence
14 that DeltaCom did not intend for those types of arrangements to be governed
15 by a collocation agreement either. For any POPs or other DeltaCom locations
16 that are established after the effective date of the new collocation agreement
17 ("future sites"), BellSouth would agree to pay mutually negotiated collocation
18 charges for BellSouth equipment located and used solely for the purposes of
19 delivery of BellSouth's originated local interconnection traffic, and only if
20 BellSouth voluntarily requests to place a POI for BellSouth's originated local
21 interconnection traffic in a particular POP or other DeltaCom location.

22
23 In those instances in which DeltaCom requests that the DeltaCom POP or
24 other location be designated as the POI for DeltaCom's originating traffic and
25 where BellSouth must place equipment in order to receive this traffic, the POP

1 or other location will NOT be deemed to be a location at which BellSouth has
2 voluntarily chosen to place a POI for BellSouth's originated local
3 interconnection traffic. Further, if DeltaCom has the right under the new
4 Interconnection Agreement to choose the POI for both Parties' originated
5 traffic and DeltaCom chooses to have the POI for BellSouth's originated
6 traffic at a DeltaCom POP or other location, then such POP or other location
7 will NOT be deemed as a location at which BellSouth has voluntarily chosen
8 to place a POI for BellSouth's originated local interconnection traffic. The
9 provisions of BellSouth's tariffs would control if BellSouth locates equipment
10 in DeltaCom's premises pursuant to such tariffs.

11
12 Q. IF ACCEPTED BY DELTACOM, WOULD THIS PROPOSAL BE
13 INCORPORATED INTO THE NEW INTERCONNECTION AGREEMENT
14 THAT IS THE SUBJECT OF THIS PROCEEDING?

15
16 A. No. This proposal would not be included in the new Interconnection
17 Agreement that is the subject of this proceeding, because, as discussed earlier
18 in my testimony, it is not a Section 251 requirement. Instead, the proposal
19 would be included in a separate agreement and have the same expiration date
20 as the new Interconnection Agreement.

21
22 ***Issue 56: Cancellation Charges:***

23 ***a) May BellSouth charge a cancellation charge which has not been approved***
24 ***by the Authority?***

25 ***b) Are these costs already captured in the existing UNE approved rates?***

1

2 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 56(a)?

3

4 A. The rates that apply when a CLEC cancels a Local Service Request ("LSR")
5 are based on Authority-approved rates. When a CLEC cancels an LSR,
6 cancellation charges apply on a prorated basis and are based upon the point
7 within the provisioning process that the CLEC cancels the LSR. The
8 applicable percentages at different points in the provisioning process are
9 included in BellSouth's FCC No. 1 Tariff. Any costs incurred by BellSouth in
10 conjunction with the provisioning of that request will be recovered in
11 accordance with BellSouth's Private Line Tariff, Section B2.4.14 (applicable
12 for UNEs that are billed by BellSouth's CRIS system) or BellSouth's FCC
13 No. 1 Tariff, Section 5.4 (applicable for UNEs that are billed by BellSouth's
14 CABS system). The Cancellation charge equals a percentage of the applicable
15 installation nonrecurring charge. Since the Authority has approved the
16 nonrecurring rates BellSouth charges for UNE installation and provisioning,
17 BellSouth's recovery of its cost incurred prior to the cancellation of the LSR
18 is appropriate and cost-based.

19

20 Q. WHAT IS BELLSOUTH'S POSITION ON ISSUE 56(b)?

21

22 A. The rates used to calculate applicable cancellation charges are based upon
23 Authority-approved rates and are not already recovered in the existing UNE
24 approved rates.

25

1 ***Issue 58: Unilateral Amendments to the Interconnection Agreement (Attachment 6***
2 ***– Sections 1.8 and 1.13.2; Attachment 3):***

3 ***(a) Should the Interconnection Agreement refer to BellSouth's website address***
4 ***to Guides such as the Jurisdictional Factor Guide?***

5 ***(b) Should BellSouth post rates that impact UNE services on its website?***
6

7 Q. WHAT IS BELL SOUTH'S POSITION ON ISSUE 58(a)?
8

9 A. Certain provisions of the Agreement should incorporate by reference various
10 BellSouth documents and publications. BellSouth may, from time to time
11 during the term of the agreement, change or alter such documents and
12 publications as necessary to update processes, technical publications, etc.
13 These documents are typically guides that affect processes and procedures,
14 and are for use by all CLECs. This is the most efficient means of providing
15 current documentation in a timely manner to all CLECs. To require that all of
16 BellSouth's guides be included in the agreement as they exist as of a
17 particular date, or not be referenced at all, would result in BellSouth not being
18 able to update or change processes, mechanize systems or have a uniform
19 approach to anything. BellSouth currently deals with approximately 93
20 CLECs just in Tennessee and must be able to exercise flexibility in enhancing
21 its processes. In the event that BellSouth implements a change that the CLEC
22 community does not agree with, that rare instance should be addressed to
23 BellSouth, or to the Authority, at that time. Those rare exceptions should not
24 be used to justify impeding BellSouth's ability to make the necessary changes
25 and to apply those changes to all CLECs. The alternative would be to require

1 BellSouth to amend every agreement any time it desired to improve a process
2 – a costly and time-consuming requirement for both CLECs and BellSouth.
3 Until all CLECs agreed upon the change, BellSouth would be required to
4 continue to offer multiple processes, dating back to the earliest version
5 incorporated into the oldest agreement. BellSouth's desire to offer
6 interconnection, access to UNEs and other services in an efficient manner
7 would be drastically impeded by such a requirement.

8
9 Q. COULD YOU DESCRIBE BELL SOUTH'S WEBSITE?

10

11 A. BellSouth's website is an invaluable tool for all CLECs doing business with
12 BellSouth. It is continually updated to assist all CLECs in running their
13 businesses more efficiently.

14

15 Q. HOW DO YOU RESPOND TO CONCERNS THAT BELL SOUTH'S
16 POSITION ALLOWS IT TO UNILATERALLY ALTER THE
17 INTERCONNECTION AGREEMENT?

18

19 A. DeltaCom and other CLECs can participate with BellSouth in the Change
20 Control Process ("CCP"), where changes to industry guidelines and CLEC
21 guides provided by BellSouth are addressed. Typically, changes to any of
22 these industry guidelines and guides that impact CLECs' Interconnection
23 Agreements are discussed as part of the CCP.

24

25 Q. WHAT IS BELL SOUTH'S POSITION ON ISSUE 58(b)?

1
2 A. BellSouth's position is that its current practice should be continued.
3 Currently, BellSouth notifies CLECs via Carrier Notification Letters in
4 advance of changes impacting UNE services. The Carrier Notification
5 Letters are posted on BellSouth's website as soon as possible, and serve as
6 proper notification to DeltaCom, as well as other CLECs of such changes. To
7 require rates to have been established and USOCs to have been assigned prior
8 to BellSouth posting new offerings would unnecessarily delay the posting of
9 the notices until after rates are developed – BellSouth strives to provide these
10 notices as quickly as possible so that the CLECs are aware of the changes as
11 soon as possible. Once new UNE rates are approved by the Authority, a
12 CLEC may request that its Interconnection Agreement be amended to
13 incorporate the new or revised rates. New rates are provided to individual
14 CLECs upon amendment of their agreement, and BellSouth has agreed to
15 provide DeltaCom with an amendment within 30 days of receipt of such a
16 request.

17
18 Q. IS DELTACOM ASKING BELL SOUTH TO DO SOMETHING BEYOND
19 ITS CURRENT PRACTICE?

20
21 A. Yes. Apparently, DeltaCom wants BellSouth to post a notice of new,
22 approved UNE rates on BellSouth's website. As explained above, waiting
23 until the rates are fully developed and approved by the Authority, would delay
24 the issuance of the Carrier Notification Letter. Since UNE proceedings are
25 public information, CLECs are aware of any new, approved rates, at the same

1 BellSouth has this information – when the Authority issues an order.
2 Therefore, posting the rates on BellSouth's website is not necessary.
3

4 ***Issue 59: Payment Due Date (Attachment 7 – Sections 1.4 and 1.4.1): Should the***
5 ***payment due date be thirty days from receipt of the bill?***
6

7 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?
8

9 A. The payment due date should not be thirty days from receipt of the bill.
10 Payment should be due by the next bill date, which is normally 30 days from
11 the current bill date.⁶ There is no legitimate reason to allow DeltaCom a full
12 thirty (30) days after receiving its bill to make payment. BellSouth invoices
13 DeltaCom every 30 days, just as it does for every customer. The bill date is
14 the same each month,⁷ and DeltaCom knows the date its bills will be due each
15 month. Moreover, it can elect to receive its bills electronically so as to
16 minimize any delay in bill printing and receipt. To the extent DeltaCom has
17 questions about its bills, BellSouth cooperates with DeltaCom to provide
18 responses in a prompt manner and resolve any issue. It is reasonable for
19 payment to be due before the next bill date. Furthermore, in a given month, if
20 special circumstances warrant, DeltaCom may request an extension of the due
21 date and BellSouth does not unreasonably refuse to grant such a request.
22

⁶ For months with 31 days, the next bill date is 31 days from current bill date; for months with 28 days, the next bill date is 28 days from the current bill date.

⁷ For Customer Record Information System (CRIS) bills or UNE bills, DeltaCom's bill date is the 7th-8th of each month; for Carrier Access billing System (CABS) bills, DeltaCom's bill date is the 1st, 7th, 13th, 16th, 22nd, 25th and 28th of the month.

1 **Issue 60: Deposits (Attachment 7 - Section 1.11):**

2 **(a) Should the deposit language be reciprocal?**

3 **(b) Must a party return a deposit after generating a good payment history?**

4

5 Q. WHAT IS BELL SOUTH'S POSITION REGARDING SUBPART (a) OF
6 THIS ISSUE?

7

8 A. The deposit language should not be reciprocal. BellSouth is not similarly
9 situated with a CLEC provider and, therefore should not be subject to the
10 same creditworthiness and deposit requirements/standards. If BellSouth is
11 buying services from a CLEC provider's tariff, the terms and conditions of
12 such tariff will govern whether BellSouth must pay a deposit. Thus, the
13 interconnection agreement is not an appropriate location for a deposit
14 requirement to be placed upon BellSouth.

15

16 Q. HAS DELTACOM FILED DEPOSIT LANGUAGE IN ITS LOCAL
17 SERVICES TARIFF?

18

19 A. Yes, it does. Section 2.5.5 of DeltaCom's Tennessee P.S.C. No. 1 – Local
20 Tariff states, in part that:

21

22 *The Company may require from any customer or prospective*
23 *customer a cash deposit to guarantee payment of bills. Such*
24 *required deposits shall not exceed an amount equivalent to the*
25 *estimated maximum bill for one billing period plus thirty (30)*
26 *days.*

27

1 Q. IS DELTACOM'S DEPOSIT LANGUAGE SIMILAR TO BELL SOUTH'S
2 DEPOSIT LANGUAGE?

3

4 A. Yes, although the deposit language in DeltaCom's Tennessee Local Tariff is
5 more rigid than BellSouth's tariff language since any applicant for service
6 may be required to provide a security deposit to DeltaCom under its tariff
7 language.

8

9 Q. WHAT IS BELL SOUTH'S POSITION REGARDING SUBPART (b) OF
10 THIS ISSUE?

11

12 A. BellSouth should not be required to return a deposit solely because a CLEC
13 generates a good payment history. Payment history alone is not a measure of
14 credit risk. BellSouth should be able to base a deposit requirement on an
15 analysis of DeltaCom's credit worthiness, not just payment history. Timely
16 payment alone is not enough to protect BellSouth in the event DeltaCom
17 ceases making timely payments. A summary of BellSouth's proposed
18 language for Attachment 7, Section 8.1, is as follows:

19

20 BellSouth reserves the right to secure the accounts of new
21 customers and existing customers with a suitable form of
22 security as follows:

23 i. All new customers, excluding a new customer
24 rated as 5A1 with Dun & Bradstreet (D&B).

1 ii. Existing customers under the following
2 circumstances:

3 (a) Poor pay history with BellSouth, defined as
4 more than 5% of the non-disputed receivable
5 balance aged in excess of 30 days from bill date
6 in a 12 month period;

7 (b) Liquidity issues that create uncertainty of future
8 payment as defined by objective criteria (i.e.,
9 financial indices from last fiscal year end and
10 most recent quarter, bond ratings, and D&B
11 ratings).

12 (c) If BellSouth experiences a pre-petition
13 bankruptcy loss, customer reverts to new
14 customer status, and Bellsouth can seek
15 adequate assurance of payment in the form of a
16 deposit or other means of security.

17
18 ***Issue 62: Limitation on Back Billing (Attachment 7 – Section 3.5): What is the***
19 ***limit on back billing for undercharges?***

20
21 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

22
23 A. BellSouth's position is that limitations for back billing should be governed by
24 the state's applicable statute of limitations and/or any applicable regulations.

1 It is BellSouth's position that the applicable statute of limitations under state
2 law should govern back billing for undercharges in Tennessee.

3
4 Q. WHAT IS THE APPLICABLE STATE STATUTE OF LIMITATIONS FOR
5 TENNESSEE?

6
7 A. The applicable Tennessee statute of limitations for contract claims which are
8 not otherwise expressly provided for in a statute, such as contracts for
9 services, is six years. See T.C.A. §28-3-109. Billing for services performed
10 for CLECs under interconnection agreements are therefore governed by this
11 statute.

12
13 ***Issue 63: Audits (Attachment 7): Is it appropriate to include language for audits***
14 ***of the parties' billing for services under the interconnection agreement?***

15
16 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

17
18 A. Audits of BellSouth's billing for services under the interconnection agreement
19 are not necessary. Performance measurements addressing the accuracy and
20 timeliness of BellSouth's billing provide sufficient mechanisms for
21 monitoring BellSouth's billing. Inclusion of audit language for billing in the
22 agreement would be duplicative and an unnecessary use of resources. In
23 response to DeltaCom's request to adopt AT&T's language on this issue,
24 adoptions pursuant to 47 USC § 252(i) are limited to network elements,
25 services, and interconnection rates, terms and conditions. A CLEC may not

1 adopt other aspects of the Interconnection Agreement that are not required
2 pursuant to Section 251. 47 USC § 252(i) only requires an ILEC to make
3 available "any interconnection, service, or network element" under the same
4 terms and conditions as the original Interconnection Agreement.
5

6 ***Issue 64: ADUF: What terms and conditions should apply to ADUF?***
7

8 Q. WHAT IS ADUF?
9

10 A. ADUF stands for Access Daily Usage File.
11

12 Q. HOW DOES A CLEC USE ADUF?
13

14 A. ADUF provides the CLEC with records for billing interstate and intrastate
15 access charges. ADUF also provides records for billing reciprocal
16 compensation charges to other local exchange carriers and IXC's for calls
17 originating from and terminating to unbundled switch ports.
18

19 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?
20

21 A. BellSouth's position is that the terms and conditions for the provision of
22 ADUF service to DeltaCom should be pursuant Attachment 7, Section 5.7 of
23 BellSouth's proposed Interconnection Agreement. It appears that DeltaCom
24 is asking BellSouth to isolate and provide to them only certain ADUF records.
25 BellSouth is not required to do this. Consistent with the FCC's 271 Orders in

1 BellSouth's states, BellSouth provides competing carriers with complete,
2 accurate, and timely reports on the service usage of their customers in
3 substantially the same manner that BellSouth provides such information to
4 itself.⁸ If DeltaCom wants a customized report, it should file a New Business
5 Request.

6

7 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

8

9 A. Yes.

⁸ See Memorandum Opinion and Order, *In re Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services In Georgia and Louisiana*, CC Docket No. 02-35 (May 15, 2002), ¶85, n. 292.